THE HON'BLE SRI JUSTICE C.V. RAMULU

Thursday, 3rd day of January, 2007

W.P.No.10033 of 2004

Between:-

Vasa Veerabhadrudu and others … Petitioners

and

The Executive Engineer,
Irrigation and Command Area
Development, Settipeta,
Nidadavolu, West Godavari District
and another … Respondents

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W.P.No.10033 of 2004

ORAL ORDER:

Heard both sides.

It appears that the petitioners have grown coconut and other trees on the canal bunds of Rapaka Branch canal in R.S. Nos.66,67,72,73,86,88/1, 88/2 and 89 of Valamarru village, Hamlet of Kapavaram, Palakol Mandal of West Godavari District. Now, the respondents seem to have ordered for cutting and removing of the coconut trees situated on either side of the bund on the ground that they are coming in the way of free flow of water, on a complaint purported to have been made by the lower riparian owners.

Admittedly, no notice of any kind has been issued to the petitioner before passing the Order dated 1-6-2004 by the Mandal Revenue Officer, Palakol directing the Assistant Engineer to cut and remove the coconut trees and palmyrah trees said to have been grown by the petitioners. While admitting the Writ Petition, an interim order was passed on 18-6-2004 directing the respondents not to cut and remove the coconut trees situated on either side of Rapaka branch canal in the said survey numbers, pending disposal of the Writ Petition. On vacate petitions being filed, the said order was made absolute holding that there is no bona fide action on the part of respondents suddenly to remove all the growns up coconut trees when there is no obstruction for free flow of water all these years and when there is also scope to deepen and widen the canal.

Respondents have filed their counter affidavits denying the allegations made by the petitioner. It is asserted that not only the trees, but also dried up coconut leaves falling in the canal are causing obstruction to the free flow of water. Therefore, the authorities have rightly taken a decision to cut and remove the coconut trees.

There is no necessity of going into all the details. It is a fact that no notice of any kind was issued to the petitioner before passing the order dated 1-6-2004 by the Mandal Revenue Officer, Palacole, for cutting and removal of the coconut trees on either side of the bund of the canal. However, learned counsel for the 2nd respondent contended that after filing the counter by the 2nd respondent, petitioner being aggrieved by the order passed by the Mandal Revenue Officer had already filed an appeal before the Revenue Divisional Officer and the same is pending.

In view of the above, without expressing any opinion on merits, the Revenue Divisional Officer, Narasapur is directed to dispose of the appeal purported to have been filed by the petitioner against the Order dated 1-6-2004 passed by the Mandal Revenue Officer, Palacole, within a period of eight weeks from the date of receipt of a copy of this order after putting all the parties on notice and hearing them personally. Till such time, the Orders dated 1-6-2004 passed by the Mandal Revenue Officer, Palacole, shall not be given effect to.

With the above directions, the Writ Petition is disposed of. No order as to costs.

03-1-2007

prk